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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,577	02/18/2004	Stephen C. Bytnar	040051	3047
45453	7590	08/17/2005	EXAMINER	
BUCHANAN INGERSOLL PC (ARCHER DANIELS MIDLAND COMPANY) 301 GRANT STREET, 20TH FLOOR PITTSBURGH, PA 15219			BRUNSMAN, DAVID M	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,577

Applicant(s)

BYTNAR ET AL.

Examiner

David M. Brunsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12, 14-17 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10, 14-17 and 23-28 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The finality of the previous office action is withdrawn as well as the rejections made therein. The instant claims are subject to rejection over newly cited art as set forth below

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-10 and 14-17 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0091324.

The reference teaches a dust control method comprising the application of a composition comprising a hemicellulose solution comprising 10-20% free sugars composed primarily of monosaccharides (page 2 paragraph [0018] preferably with the addition of lignin in an amount of 1-50% (page 3, paragraph [0028]) and a hygroscopic salt such as magnesium chloride (see example 1). See claims 8-14.

Claims 6-8, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6790245.

Column 5, lines 10-22 of the patent disclose the composition of the CMS used in claims 1-3 in a method of controlling dust by applying a composition comprising concentrated molasses solids which comprising about 18% by weight sucrose overall. While this reference and similar prior art discloses a high mineral content for molasses products, it

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does not explicitly disclose the form (salt) in which those minerals are present. As this information is not easily available to the office, the compositions of the reference cannot be directly compared to claims requiring a particular salt component.

Claims 6, 7, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 1910975.

The reference disclose dust control by application of a composition comprising molasses which contains about 60% solids of which about half is sucrose. See page 2, lines 11-13 and claims 1-3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over 2004/0091324, 6790245 or 1910975, as applied above, in view of US Patent 5714387.

The difference between the 102 references and the instant claims is the presence of a tracer component such as a fluorescent dye. US 5714387 teaches a method of determining the dosage rate of dust control agent sprayed onto dusty surfaces by including a fluorescent dye in the material to be sprayed and then measuring fluorescence. It would have been obvious to one of ordinary skill in the art to include a fluorescent dye in the compositions of the above references because one of ordinary skill is taught deposition rates may be determined therewith.

Claims 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

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base claim and any intervening claims. The prior art of record fails to teach or suggest the inclusion of dextrose in the sugar component of the disclosed compositions.

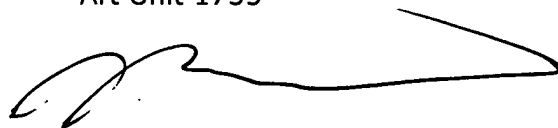
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Brunzman whose telephone number is 571-272-1365. The examiner can normally be reached on M, W, F, Sa; 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David M Brunzman
Primary Examiner
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DMB

A handwritten signature in black ink, appearing to be 'DMB', written over a horizontal line.